

Department of Veterans Affairs

§ 3.652

dependent who has apparent entitlement which, if established, would require reduction of pension, compensation or dependency and indemnity compensation being paid to another dependent, payments to the person or persons on the rolls will be reduced as follows:

(1) Where benefits would be payable from a date prior to the date of filing claim, the reduction will be effective from the date of potential entitlement of the additional dependent.

(2) Where benefits would be payable from the date of filing claim, the reduction will be effective the date of receipt of the claim by the additional dependent, or date of last payment, whichever is later.

If entitlement of the additional dependent is not established, benefits previously being paid will be resumed, if otherwise in order, commencing the day following the effective date of reduction.

(b) *New awards.* If the additional dependent is found to be entitled, the full rate payable will be authorized effective the date of entitlement.

(c) *Retroactive DIC award to a school child—(1) General.* If DIC (dependency and indemnity compensation) is being currently paid to a veteran's child or children under 38 U.S.C. 1313(a), and DIC is retroactively awarded to an additional child of the veteran based on school attendance, the full rate payable to the additional child shall be awarded the first of the month following the month in which the award to the additional child is approved. The rate payable under the current award shall be reduced effective the date the full rate is awarded to the additional child. The rate payable to the additional child for periods prior to the date the full rate is awarded shall be the difference between the rate payable for all the children and the rate that was payable before the additional child established entitlement.

(2) *Applicability.* The provisions of paragraph (c)(1) of this section are applicable only when the following conditions are met:

(i) The additional child was receiving DIC under 38 U.S.C. 1313(a) prior to attaining age 18; and

(ii) DIC for the additional child was discontinued on or after attainment of age 18; and

(iii) After DIC has been discontinued, the additional child reestablishes entitlement to DIC under 38 U.S.C. 1313(a) based on attendance at an approved school and the effective date of entitlement is prior to the date the Department of Veterans Affairs receives the additional child's claim to reestablish entitlement.

(Authority: 38 U.S.C. 1313(b))

(3) *Effective date.* This paragraph is applicable to DIC paid after September 30, 1981. If DIC is retroactively awarded for a period prior to October 1, 1981, payment for the period prior to October 1, 1981 shall be made under paragraph (a) of this section and payment for the period after September 30, 1981, shall be made under this paragraph.

[29 FR 9564, July 15, 1964, as amended at 47 FR 24551, June 7, 1982]

§ 3.651 Change in status of dependents.

Except as otherwise provided:

(a) A payee who becomes entitled to pension, compensation, or dependency and indemnity compensation or to a greater rate because payment of that benefit to another payee has been reduced or discontinued will be awarded the benefit or increased benefit without the filing of a new claim.

(b) The commencement or adjustment will be effective the day following the reduction or discontinuance of the award to the other payee if the necessary evidence is received in the Department of Veterans Affairs within 1 year from the date of request therefor; otherwise from the date of receipt of a new claim.

(c) The rate for the persons entitled will be the rate that would have been payable if they had been the only original persons entitled.

[26 FR 1598, Feb. 24, 1961, as amended 27 FR 11890, Dec. 1, 1962; 30 FR 133, Jan. 7, 1965]

§ 3.652 Periodic certification of continued eligibility.

Except as otherwise provided:

(a) Individuals to whom benefits are being paid are required to certify, when